

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

JEAN PIERRE LAFFONT,	)	
	)	
Plaintiff,	)	Case No. 1:19-cv-09456
	)	
v.	)	
	)	
SMARTEN MEDIA LLC,	)	JURY TRIAL DEMAND
	)	
Defendant.	)	
	)	

**SMARTEN MEDIA'S MOTION TO VACATE DEFAULT**

Defendant Smarten Media LLC files this, its Motion to Vacate Default pursuant to Rules 55(c) and 60(b) of the Federal Rules of Civil Procedure, and respectfully shows the Court the following:

As set out more fully in the accompanying Memorandum of Law and Affidavit of Michael Martin, Defendant Smarten Media has meritorious defenses to Plaintiff's copyright infringement claim. Further, the present Motion to Vacate Default is timely filed pursuant to Rule 60(b), as Smarten Media is moving to vacate the default less than one year after its entry, and there is no prejudice to Plaintiff in vacating the default and Plaintiff consented to removal of default. Moreover, Smarten Media's failure to answer was not willful, but was based on inadvertence, mistake, and/or excusable neglect. The present motion should therefore be granted, and the default judgment entered against Smarten Media should be vacated.

WHEREFORE, Defendant respectfully moves the Court to vacate the default and allow Defendant reasonable time to respond to the Complaint.

Dated: May 1, 2020

Respectfully submitted,

ST. ONGE STEWARD JOHNSTON & REENS LLC

/s/Tatyana Voloshchuk/

Tatyana Voloshchuk (TV0131)

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*Attorneys for Defendant SMARTEN MEDIA LLC*

**CERTIFICATE OF SERVICE**

I hereby certify that on, a true and correct copy of the foregoing was filed electronically and served by mail on anyone unable to accept electronic filing. Notice of this filing will be sent by e-mail to all parties by operation of the court's electronic filing system or by mail to anyone unable to accept electronic filing as indicated on the Notice of Electronic Filing.

Dated: May 1, 2020

ST. ONGE STEWARD JOHNSTON & REENS LLC

/s/Tatyana Voloshchuk/

Tatyana Voloshchuk (TV0131)

**Table of Contents**

**Affidavit of Michael Martin, dated April 30, 2020**

Exhibit A to Affidavit – corporate record for Smarten Media LLC from NYS Division of Corporations dated April 16, 2020.